

Title VI Implementation Plan

October 2015

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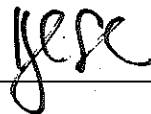
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Nebraska Department of Roads Mission

To provide the best possible statewide transportation system for the movement of people and goods.

Non-discrimination Statement of Policy

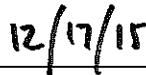
In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, the Nebraska Department of Roads ensures that no person shall, on the grounds of race, color, national origin, age, disability, or sex, be excluded from participation in, denied the benefits or services of, or be otherwise subjected to discrimination in all programs, services, or activities administered by the Nebraska Department of Roads.



Kyle Schneweis, P.E.

Director

Nebraska Department of Roads



Date

Title VI Assurances

The Nebraska Department of Roads (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal Aid Highway Program:


1. That the Recipient agrees that each "program" and each "facility as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federal Aid Highway Program and, in adapted form in all proposals for negotiated agreements:

The Nebraska Department of Roads, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin or disability in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties:
 - (a) for the subsequent transfer of real property acquired or improved under Federal Aid Highway Program; and
 - (b) For the construction or use of or access to space on, over or under real property acquired, or improved under the Federal Aid Program.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods:
 - (a) The period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - (b) The period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the Federal Aid Highway Program and is binding on it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.



Kyle Schneeweis, P.E.,
Director
Nebraska Department of Roads

12/17/15

Date

Appendix A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to non-discrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the (Name of Appropriate Administration) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the (Name of Appropriate Administration) as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the non-discrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the (Name of Appropriate Administration) may determine to be appropriate, including, but not limited to:
 - (a.) Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b.) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as the (Recipient) or the (Name of Appropriate Administration) may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may

request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix B

The following clauses shall be included in any and all deeds effecting or recording the transfer of [federal] real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by (Name of Appropriate Administration) of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.

The (Name of Recipient), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [] [and]* (2) that the (Name of Recipient) shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [] and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Appendix C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the (Name of Recipient) pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above non-discrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]*

That in the event of breach of any of the above non-discrimination covenants, (Name of Recipient) shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns. The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or he otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above non-discrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above non-discrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Organization and Staffing of the NDOR Civil Rights Unit

The Department of Roads has sixteen divisions in headquarters, eight field districts, and the Office of Legal Counsel (Attorney General). While the overall responsibility for the NDOR Title VI program lies with the Director of the agency, daily operations are coordinated through the Highway Civil Rights Coordinator, who reports programmatically to the Director and administratively to the Program Management Division Administrator. On matters of importance and need relating to Title VI, the Highway Civil Rights Coordinator has immediate and direct access to the NDOR Director. While not required, the Highway Civil Rights Coordinator appropriately notifies the Program Management Division Administrator of any work taking place within the Civil Rights Unit.

Roles and Responsibilities

Director, Deputy Directors

- Sign statement of non-discrimination and assurances.

- Responsible for implementation of the Title VI requirements by providing leadership, guidance, direction, support, and resources for the Title VI program.

Division Heads/District Engineers

- Incorporate Title VI non-discrimination requirements into the appropriate manuals, directives, and policies relating to their respective areas of operations

- Designate staff to work closely with the Highway Civil Rights Coordinator (as needed) in the development or execution of procedures to ensure non-discrimination in NDOR program areas.

Highway Civil Rights Coordinator: Chris Hassler

- Oversee and manage NDOR's internal and external Civil Rights Program, including the following areas of civil rights compliance: Americans with Disabilities Act; Disadvantaged Business Enterprise program; Contractor EEO compliance; Internal EEO compliance; and all elements of the Title VI Nondiscrimination Program (Internal/external Title VI compliance, Limited English Proficiency, and Environmental Justice).

- Prepare and/or oversee the preparation of memos, reports, publications, program documents, and presentations to meet the requirements of civil rights regulations and NDOR policies. Coordinate updates of all relevant program documents and submit to FHWA for approval when necessary.

- Assist NDOR and subrecipients in understanding civil rights requirements and correcting discriminatory practices or policies.

- Coordinate and conduct compliance reviews of NDOR and its subrecipients.

- Provide technical assistance and training to NDOR and subrecipients regarding civil rights issues.

- Collect, review, and analyze, or oversee collection, review, and analysis of, statistical data on participants in and beneficiaries of NDOR programs, activities, and services.

Develop and coordinate performance standards related to the NDOR Civil Rights Program.

Investigate or oversee investigation of Title VI, ADA, DBE, EEO, and/or other complaints of discrimination against NDOR or its subrecipients.

Internal Equal Employment Opportunity/Affirmative Action Officer: Karen Mosier

Plan, organize, and perform technical, administrative, liaison, and oversight activities attendant to federally-mandated EEO compliance.

Develop and maintain agency EEO Plan; Publicize Plan both internally and externally.

Develop and implement educational and outreach programs in order to promote agency job openings/opportunities, with particular emphasis on diversity and outreach to traditionally under-represented populations; Establish and maintain contacts and resources in local communities to aid in recruitment efforts.

Design, implement, and monitor internal data and reporting systems to measure program effectiveness; Develop strategies for continued efficiency and improvement.

Monitor and evaluate NDOR employee recruitment and selection procedures to ensure nondiscriminatory practices; Assist with recruitment activities when necessary.

Investigate, research, and respond to NEOC workplace discrimination complaints; Serve as agency point of contact for NEOC.

Monitor agency compliance with state and federal statutes, regulatory agency guidelines, and agency policies relating to EEO, diversity, and other civil rights topics.

Coordinate agency TRAC/RIDES program through innovative strategies with schools; Coordinate the NSTI program and participate in NSTI events as needed.

Collect, review, distribute, and report on employee exit interviews, both to collect employee turnover data and to monitor interviews for potential discrimination/EEO issues.

Increasing awareness of EEO/diversity policies and initiatives by providing training and education, writing articles and/or newsletters, and similar strategies.

Disadvantaged Business Enterprise Officer: Vacant as of 11/02/2015

Oversee and coordinate the agency's Disadvantaged Business Enterprise (DBE) and Contractor Compliance programs; investigate and monitor activities of applicants and participants to ensure compliance with agency, state, and federal program guidelines and regulations.

Develop and maintain agency DBE and Contractor Compliance Manuals; Publicize manuals both internally and externally.

Oversee the DBE certification program to ensure applicants meet federal eligibility criteria; review and approves staff recommendations; advise supervisory and management staff on matters pertaining to the DBE program and contractor compliance.

Obtains all of the data needed for establishing the NDOR Annual DBE Overall Participation Goal. Calculate the goal, submit the goal to the FHWA for approval, publish the goal in the appropriate media, explain the rationale used in establishing the goal.

Assist in establishing individual NDOR project/contract DBE participation goals.

Provide training for certified DBE firms and potential DBE firms. Answer questions from firms seeking DBE certification and provides guidance to firms with the DBE application process.

Coordinate the identification and contact of minority and female owned and controlled firms to solicit participation in the DBE program.

Highway Civil Rights Specialist, DBE: Kellie Rabenhorst

Analyze applications from firms providing highway construction related services to determine if the firms and their owners meet the federal eligibility criterion for certifications as Disadvantage Business Enterprises (DBEs).

Conduct reviews of firms currently certified as DBEs to determine if the firms should retain their DBE eligibility status.

Conduct inspections of highway construction projects and/or contractors' home offices.

Review and analyze data and interview personnel to determine if contractors are in compliance with the EEO/EO contract requirements including: Recruiting, hiring, training, and promoting women and minorities, and subcontracting with women and minority owned firms.

Document findings of contractor inspections and interviews, organize documents obtained during the inspections as exhibits and prepare written EEO Contractor Compliance Review Reports for FHWA.

Monitor On-the-Job (OJT) Program to ensure contractors are meeting their OJT obligations.

Review trainee enrollment requests and determine if individuals are eligible to participate.

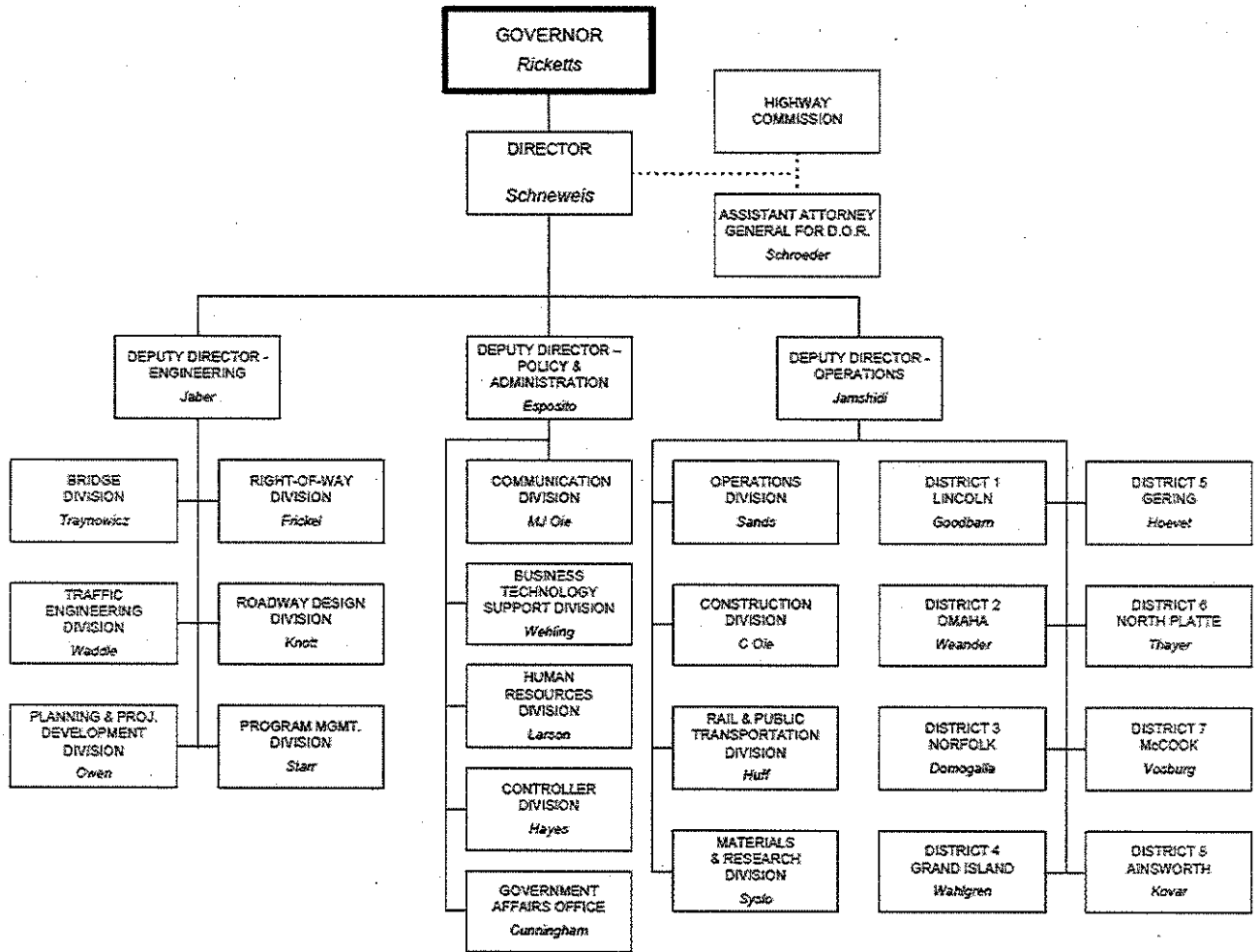
Receive monthly OJT reports from contractors and enter data.

Prepare annual FHWA OJT Update and Accomplishments Report.

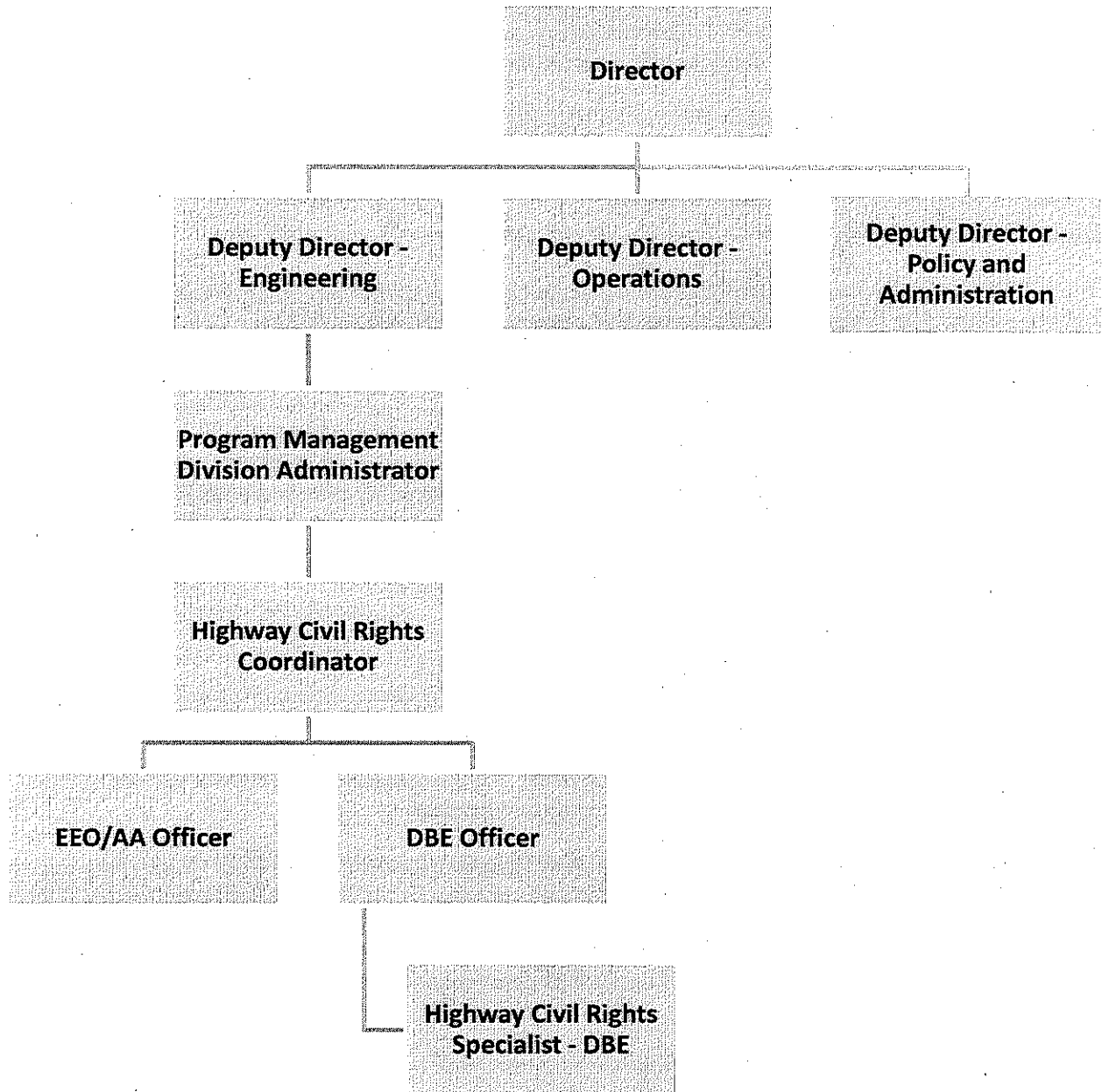
Receive FHWA-1391 EEO Reports from contractors and prepare FHWA-1392 Annual EEO Report.

Disseminate information on DBE, EEO Contractor Compliance and On-the-Job Training Programs.

State of Nebraska
Department of Roads
Organizational Chart
Lincoln Headquarters



Location of Civil Rights Unit Within NDOR



Internal Program Area Compliance

The Nebraska Department of Roads is required by 23 CFR 200.9(b)(5) to develop a program to conduct Title VI reviews of program areas. NDOR currently divides its program areas into sixteen divisions, each responsible for a different aspect of either project delivery or daily operations. The duties of some NDOR divisions have a greater nexus with civil rights obligations, and by consequence, these divisions have greater civil rights responsibilities. These divisions are subject to more frequent and rigorous review than others.

What follows are the methods used by the NDOR Civil Rights Office to review the Title VI compliance of Internal Program Areas.

Bridge Division

The NDOR Bridge Division is tasked with the design and inspection of bridges on the Nebraska state highway system. The Bridge Division has very little nexus with the NDOR Civil Rights Office. However, one aspect of bridge design is compliance with the Americans with Disabilities Act 2010 Standards for Accessible Design.

The Bridge Office Policies and Procedure Manual states clearly that pedestrian pathways on Nebraska's bridges must be designed in compliance with the Americans with Disabilities Act. The NDOR Civil Rights Office will survey the Bridge Division on an annual basis concerning ADA compliance. As is the case with every NDOR division, the Bridge Division might be subject to a more intensive review as a result of a complaint or other irregularity.

Communication Division

The NDOR Communication Division is a varied division with many duties, including information processing, record-keeping, photography services, mail services, and print-and-copy services. Additionally, and more importantly in the civil rights context, the Communication Division is tasked with the preparation and distribution of Departmental information to the public, the maintenance of the NDOR website, and the planning, scheduling, and conducting of public meetings and hearings.

Some areas of the Communication Division (the NDOR Print Shop or the NDOR Word Center) have minor or no nexus with civil rights issues, and are not commonly reviewed by the NDOR Civil Rights Office. Other areas, however, frequently encounter civil rights issues. The NDOR Civil Rights Office has contact with the NDOR Communication Division Public Involvement Team on a near-daily basis. Regular items of discourse include Environmental Justice and Limited English Proficiency requirements for public outreach during the development of NDOR projects.

A process is currently in place to ensure that the Civil Rights Office completes a civil rights review of every NDOR or local federal-aid project before the Public Involvement team begins to plan for public outreach. The NDOR Public Involvement Team receives a document describing the demographic data in the project area, the required public outreach enhancements, and recommendations for community resources to aid in information dissemination. In this way, the Civil Rights Office ensures that the Communication Division has the information needed, and in a timely manner, to adequately prepare for enhanced outreach to protected populations. The Public Involvement Manager, Public Involvement Specialists, and the Highway Civil Rights Coordinator commonly meet, both formally and informally, to discuss public outreach with regard to civil rights issues.

In circumstances where enhanced public outreach has occurred as a result of a protected population in a project area, the Civil Rights Office has direct network access to public hearing and public meeting reports, and other public involvement documents, in order to review the attendees of public meetings, any translated materials, pre-meeting outreach to community contacts, and/or other population-specific outreach efforts. The NDOR Civil Rights Office reviews these public involvement documents regularly in the ordinary course of business.

The NDOR Civil Rights Office maintains a document, the Public Involvement ADA Accessibility Checklist (See Documents Appendix), so that the Public Involvement Team is able to review potential public meeting/hearing venues for ADA accessibility. In addition, the Public Involvement Team is aware of the ADA requirement to provide auxiliary communication aids and services to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. ADA public meeting facility compliance, as well as the provision of auxiliary communication aids and services, is reviewed by the Civil Rights Office by inspecting public meeting and public hearing reports, and/or other public outreach documentation. The NDOR Civil Rights Office reviews these public involvement documents regularly in the ordinary course of business.

The NDOR Communication Office also controls and maintains NDOR's Telecommunications Devices for the Deaf.

Because of the everyday nature of the contact between the NDOR Civil Rights Office and the NDOR Communication Division, annual or biannual surveys of civil rights compliance would be redundant. The Civil Rights Office thoroughly reviews those activities in the Communication Division that are intertwined with civil rights issues in the normal course of business. As in the case of any other NDOR division, the Communication Division may be subjected to a more involved compliance review in response to a complaint or other irregularity.

Construction Division

The Construction Division is responsible for advertising, letting, awarding, and administering all construction activities, as well as coordinating construction activities with the FHWA. Due to recent organizational changes, the DBE Office is no longer located within the Construction Division. Employees of the Construction Division still have civil rights responsibilities in the areas of applying DBE goals to specific contracts, and then also monitoring and documenting participation by DBEs on jobsites for specific projects.

The NDOR Construction Division includes all the necessary Title VI Assurance contract provisions in all federal aid construction contracts executed.

The Civil Rights Office is regular contact with the project managers that monitor and document DBE participation on job sites. The Highway Civil Rights Coordinator and DBE Officer work with the Construction Division to apply DBE goals to particular contracts. Because of the newness of the reorganization, detailed plans for reviewing any emerging civil rights duties of the Construction Division are not presently in effect, and will be developed in the upcoming year.

The Construction Division may be subject to a more through civil rights review in response to a complaint or other irregularity.

Human Resources Division

The NDOR Human Resources Division has many duties, including recruitment, classification, payroll, discipline/grievances, and workforce development.

The NDOR EEO/AA Plan details many Human Resources functions that NDOR employees might be subjected to (for example, hirings, terminations, promotions, trainings attended, and disciplinary actions), with a particular focus on the demographic statistics of the affected employees.

The NDOR EEO/AA Officer is in regular contact with appropriate personnel in the Human Resources Division. On at least a biannual basis, the NDOR Civil Rights Office will collect information from appropriate personnel in the Human Resources Division for the purpose of reviewing NDOR's internal EEO/AA compliance. Survey questions will be designed to probe the following areas

Demographic data on the current NDOR workforce.

Changes to Human Resources policies and procedures.

Demographic and other data on employment activities, including recruitment, promotion, discipline, and termination.

The Human Resources Division may be subject to a more thorough civil rights review in response to a complaint or other irregularity.

Operations Division

The Nebraska Department of Roads Operations Division, Maintenance Management Section, is responsible for the oversight of the Capital Facilities Unit, Fleet Management Unit, Procurement Unit, and Facilities Maintenance Unit. The Capital Facilities Unit is responsible for modifying existing NDOR facilities for compliance with the Americans with Disabilities Act, according to the schedule detailed in the NDOR ADA Transition Plan.

On an annual basis, the NDOR Civil Rights Office will survey the NDOR Operations Division. The purpose of the survey will be to determine the specific ADA-related facility improvements of the previous year, and to examine the ADA-related facility improvements planned for the upcoming year. As with any division of NDOR, the Operations Division may be subject to a more thorough review in response to a complaint or other irregularity.

Planning and Project Development Division

The NDOR Planning and Project Development Division is responsible for planning and location studies, agreements and consultant services, project scoping and utilities services, and, most importantly in the context of civil rights compliance, the creation of environmental documents under the National Environmental Policy Act.

The NDOR Civil Rights Office has near-daily contact with the Environmental Unit of the Planning and Project Development Division. The Civil Rights Office currently reviews each state and local federal-aid project for Environmental Justice and Limited English Proficiency concerns during the completion of NDOR Form 53 (DR-53), Probable Class of NEPA Action Form. This form includes most project specifics, as well as project area and detour maps, as attachments. Because the DR-53 is one of the first documents

created in the life of a project, the NDOR Civil Rights Office is able to review projects at a very early stage of development. This early review allows the Civil Rights Office to recommend effective public involvement/outreach methods, and also allows the Civil Rights Office to keep a close eye on projects with potential disproportionately high and adverse effects as the project development process progresses. The early Civil Rights Office review is included with the DR-53, or in a separate "Civil Rights Memo," and is routed to both the NDOR Public Involvement Office and the NDOR Environmental Unit.

The Civil Rights Office maintains records of every Environmental Justice analysis undertaken for the NDOR Environmental Unit. The Civil Rights Office has direct access to project descriptions, project maps, and other project-specific documents, and does not ordinarily rely on the Planning and Project Development Division to provide these documents. The Civil Rights Office reviews and approves Environmental Justice analysis undertaken by consultants.

Policies are currently being developed to incorporate DBE goals into professional services procurement. The Civil Rights Office will be coordinating with the Planning and Project Development Division to develop these procedures in the coming months.

Because of the everyday nature of the contact between the NDOR Civil Rights Office and the NDOR Planning and Project Development Division, annual or biannual surveys of civil rights compliance would be redundant. The Civil Rights Office thoroughly reviews those activities in the Planning and Project Development Division that are intertwined with civil rights issues in the normal course of business. As in the case of any other NDOR division, the Planning and Project Development Division may be subjected to a more involved compliance review in response to a complaint or other irregularity.

Program Management Division

The NDOR Program Management Division is responsible for developing and managing the one- and six-year highway construction program with the advice of the District Engineers and Highway Commission. The Program and Project Delivery Section is responsible for implementation and maintenance of the scope and estimate change management process and coordination of the project delivery process.

The Civil Rights Unit of NDOR is located in the Program Management Division. The placement of the Civil Rights Unit in a division of NDOR that has very little nexus with civil rights was an intentional act intended to alleviate actual or perceived conflicts of interest resulting from the location of the Civil Rights Unit.

Rail and Public Transportation Division

The NDOR Rail and Public Transportation Division must submit a Title VI Implementation Plan to the Federal Transit Administration every three years. Additionally, the Division must perform compliance evaluations on subrecipients of federal financial assistance. Civil Rights-related complaints received by the Rail and Public Transportation Division are immediately forwarded to the NDOR Civil Rights Office.

On a biannual basis, the NDOR Civil Rights Office will survey the Rail and Public Transportation Division to determine compliance with FTA Title VI directives, and also to solicit information on compliance reviews of subrecipients. Survey questions will be designed to probe the following areas of compliance:

Does the NDOR Rail and Public Transportation Division have an FTA-approved Title VI Plan in place?

Has the Division made any changes to the Title VI Plan in the past six months?

Have subrecipients subject to compliance reviews general been in compliance? Which subrecipients were reviewed and why?

As with any division of NDOR, the Rail and Public Transportation Division may be subject to a more thorough review of policies and/or activities in response to a complaint or other irregularity.

Right of Way Division

The Nebraska Department of Roads Right of Way Division is responsible for activities which include negotiating for and closing the purchase of real estate needed by NDOR, making and reviewing appraisals establishing the value of land and interests in land, and providing relocation assistance payments and services to those displaced by the NDOR. The NDOR Civil Rights Office is particularly interested in reviewing information pertaining to the relocation services provided by the Right of Way Division in order to ensure compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act).

The Right of Way Division maintains a comprehensive manual of procedures. The sections of this manual very closely track the language used in 49 CFR 24, the implementing regulations for the Uniform Act. In addition, the manual contains discussion of various civil rights regulations applicable to the right of way process. New employees in the Right of Way Division are trained from this manual, and the provisions of the Right of Way Manual are followed in all business of the division. The Right of Way Division collects data on relocatees through the use of a questionnaire.

In order to review civil rights compliance in the Right of Way Division, the NDOR Civil Rights Office addresses a biannual questionnaire to the Right of Way Division Manager, or his designee. The questionnaire regularly seeks information on a few key points:

Have there been any revisions to the Right of Way Manual?

Has training on the procedures in the Right of Way Manual been provided in the past six months? If yes, to whom?

Have there been any relocations in the past six months? If yes, please provide demographic data for those persons relocated.

Other areas within the duties of the Right of Way Division might be explored in a biannual questionnaire in response to a complaint or other irregularity. In addition, as with any division of NDOR, the Right of Way Division may be subject to a more thorough review of policies and/or activities in response to a complaint or other irregularity.

Roadway Design Division

The NDOR Roadway Design Division is tasked with the design of projects occurring on the Nebraska state highway system. The Roadway Design Division has very little nexus with the NDOR Civil Rights Office.

However, one aspect of roadway design is compliance with the Americans with Disabilities Act 2010 Standards for Accessible Design.

The Roadway Design Manual, chapter 10, Section 10B, states clearly that pedestrian infrastructure on Nebraska's state highway system must be designed in compliance with the Americans with Disabilities Act. The NDOR Civil Rights Office will survey the Roadway Design Division on an annual basis concerning ADA compliance. As is the case with every NDOR division, the Roadway Design Division might be subject to a more intensive review as a result of a complaint or other irregularity.

Other NDOR Divisions and the Eight NDOR Districts

NDOR maintains several additional divisions that have rare or infrequent nexus with the Civil Rights Office, or even with civil rights issues. These divisions include:

Assistant Attorney General for the Department of Roads (Legal Division)

Business Technology Support Division

Controller Division

Governmental Affairs Division

Materials and Research Division

Traffic Engineering Division

The NDOR Civil Rights Office does not regularly conduct reviews of these program areas. However, a thorough review would be conducted of any program area in response to a civil rights complaint or other irregularity.

The eight NDOR districts do not currently have civil rights-related responsibilities. All of the activities that might be civil rights-related that are carried out by the NDOR districts are reviewed first by either the Civil Rights Office or other NDOR divisions with civil rights-related duties. For example, when pre-construction public involvement is needed, the districts contact the NDOR Communication Division for assistance with any necessary translations. Americans with Disabilities Act considerations for NDOR projects have already been addressed in design before the districts get the project information. Any EEO/AA questions or complaints are not handled in district offices; they are handled by the NDOR EEO Officer in the Human Resources Division. For these reasons, the NDOR Civil Rights Office does not regularly conduct reviews of the eight NDOR districts. However, a thorough review may be conducted of any district in response to a civil rights complaint or other irregularity.

Subrecipient Compliance

23 CFR 200.9(b)(7) requires State Transportation Agencies to conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds. In a year when a subrecipient is not subject to a Desk Audit, the subrecipient must complete an Annual Report and return it to the NDOR Civil Rights Office by July 31 (See Documents Appendix . The Civil Rights Office compiles a report on any changes, trends, or deficiencies noted in the Annual Reports (See Documents Appendix).

The Nebraska Department of Roads conducts annual desk audits of its subrecipients that have received the most Federal-aid highway funds during the previous fiscal year. To ensure that the same few subrecipients that receive the bulk of federal aid through NDOR are not reviewed every year, the Civil Rights Office does not review individual subrecipients more frequently than every 4 years unless complaints or other irregularities in a specific subrecipient prompt more frequent review.

NDOR desk audits focus on subrecipient compliance in three broad areas: Title VI of the Civil Rights Act of 1964 and related regulations/guidance; the Americans with Disabilities Act of 1990 and related regulations/guidance; and Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, and related regulations/guidance.

Desk Audit

By March 1st of a given year, Civil Rights Compliance Questionnaires are mailed to sub-recipients to complete and return to NDOR. Completed and returned Questionnaires are reviewed for compliance by the NDOR Highway Civil Specialist, and a letter is mailed to the subrecipient to request further information, note deficiencies, and/or advise of the subrecipient's compliance status.

Subrecipients are given until the end of the day (11:59pm) on April 1 to complete and return the Questionnaire. If the Questionnaire has not been completed in the time allowed, the NDOR Civil Rights Office examines the subrecipient's compliance based solely on information already on file with NDOR (if any).

Regular contact is maintained with subrecipients during the audit process. At minimum, subrecipients in deficiency status are contacted on the following schedule (if the dates fall on a weekend, the contact will be made on the following Monday):

- | | |
|-------------|--|
| Jan 1: | Civil Rights Compliance Questionnaire and a letter of explanation is sent to selected subrecipients. |
| Jan 15: | All subrecipients are contacted by telephone to ensure arrival of the Questionnaire, and to answer any questions about Questionnaire items or civil rights issues. |
| February 1: | All subrecipients are contacted in order to check on progress of questionnaire and/or deficient items. |
| April 1: | All subrecipients are contacted in order to check on progress of deficient items. |
| June 1: | All subrecipients are contacted in order to check on progress of deficient items. |

September 1: All subrecipients are contacted in order to check on progress of deficient items. The statuses of the subrecipients on this day will be the statuses reported to FHWA in NDOR's Title VI Implementation Plan for that year.

Record is kept of all contact with subrecipients, and included in the subrecipient's audit file.

Desk Audit with On-Site Review

When desk audits have supplied insufficient information, or when a subrecipient has failed, after the June 1 contact (above), to acknowledge the desk audit or to make compliance progress, the NDOR Civil Rights Office will initiate the process of an On-Site Review. On-Site Reviews will be conducted by NDOR's Highway Civil Rights Coordinator and/or Highway Civil Rights Specialist.

Notification of an On-Site Review will be sent to the subrecipient no later than June 15. Notification will include, at minimum, the reason for and scope of the On-Site Review; applicable regulations and NDOR policy; a selection of at least 3 dates for the Review (in order to allow for conflicts in the subrecipient's schedule); and contact information for the NDOR Civil Rights Office.

On-Site Reviews will consist of:

A training segment, during which time the civil rights responsibilities of NDOR subrecipients will be presented and explained. Civil rights laws and regulations will be examined, and tools for coming into compliance will be presented to the subrecipient (sample plans, templates, etc.).

A review of the subrecipient's Civil Rights documents, if any are completed.

An examination of the transportation-related elements of the subrecipient's programs and primary facility, in order to determine general Americans with Disabilities Act compliance. This inspection will not examine all aspects of ADA compliance (the subrecipient's Self-Examination should do this). Rather, the purpose of the examination is to illustrate the regulatory density of the Americans with Disabilities Act 2010 Standards for Accessible Design, and underscore the importance of having a thorough ADA Self-Examination and Transition Plan in place.

A review of the subrecipient's Limited English Proficiency provisions, if any, in order to illustrate the need for a well-reasoned four-factor LEP analysis and plan of action.

Additional areas may need inspection depending on the specific circumstances of the subrecipient. Any additional items will be listed in the On-Site Review Notification letter in the discussion about the scope of the On-Site Review.

Reports

The results of either a Desk Audit or a Desk Audit with On-Site Review will be captured in a Subrecipient Audit Report. At minimum, the report shall include:

A summary of key events and communications during the Desk Audit or Desk Audit with On-Site Review;

All written communication and logs of verbal communication with a subrecipient; and

Copies of all civil rights documentation on file for the subrecipient;

Subrecipient Audit Reports will be kept on file until the subrecipient is next audited and the materials are superseded.

Non Compliance

The Nebraska Department of Roads shall, to the fullest extent practicable, seek the cooperation and voluntary compliance of subrecipients with regard to the responsibilities of the Title VI Program. NDOR shall provide assistance and guidance to subrecipient to help them comply voluntarily.

If attempts at voluntary compliance fail to correct civil rights deficiencies NDOR will contact the FHWA to determine the appropriate actions to be taken. 49 CFR 21.13(a) states, with regard to federal agencies under the authority of the United States Department of Transportation, that:

- (a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

In the event of noncompliance by a subrecipient that cannot be resolved through voluntary or informal means, NDOR will seek one or more of the above sanctions, with the advice and consent of the FHWA.

Data Collection

23 CFR 200.9(b)(4) requires the Nebraska Department of roads to develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities.

Data collection regularly takes place within the program areas of NDOR. Specific methods of data collection include the following:

The relevant demographic data on persons that are relocated by NDOR is collected by use of a questionnaire. The Right of Way Division administers this questionnaire as a regular part of the acquisition and/or relocation process. The data collected in these questionnaires is reported to the Civil Rights Office biannually (See Documents Appendix).

The NDOR Communication Division uses a sign-in sheet at all public meetings and hearings (See Documents Appendix). The standard sign-in sheet is printed in both English and Spanish, and asks meeting/hearing participants for their gender and race or ethnicity. Sign-in sheets are always included in the reports generated after a public meeting or hearing, and are reviewed by the Civil Rights Office when project-specific circumstances demand (for example, when a Limited English Proficiency or Environmental Justice population is potentially adversely affected by a project).

The NDOR Civil Rights Office collects and maintains data relating to the Limited English Proficiency program. The NDOR LEP Plan is updated, at minimum, every two years. State-wide data to support the four-factor LEP analysis is collected and presented in the LEP Plan. In addition, the NDOR Civil Rights Office conducts a civil rights review of each federal-aid project, whether an NDOR project or a local public agency project. Data on LEP persons in the project area is collected and used to determine whether or not translations and interpretation is required during public involvement for the project.

As stated above, the NDOR Civil Rights Office conducts a civil rights review of each federal-aid project, whether an NDOR project or a local public agency project. Data on Environmental Justice populations in the project area is collected and used to develop tailored, targeted public outreach efforts intended to promote meaningful involvement in transportation decision-making by traditionally underserved populations. Environmental Justice data is also a factor used in determining effective mitigation strategies.

Training

The Workforce Development Section of the Nebraska Department of Roads is within the Human Resources Division. This office is responsible for the overall administration, development, and implementation of the Employee and Leadership Development programs. Courses are made available to all employees, provided by in-house trainers, and vendor training, including courses provided by the National Highway Institute (NHI) courses.

Most courses are offered to anyone interested in increasing their knowledge and skills. In most cases there are no requirements necessary to complete the courses. Although placed into a recommended category, the course offering is intended to provide training opportunities, either for existing duties or future development.

The Highway Civil Rights Coordinator works with the Human Resources Workforce Development team to coordinate and provide training to NDOR employees pertaining to Title VI compliance:

- Identify courses necessary for all employees to support the Title VI programs throughout the agency, including Limited English Proficiency.

- Develop courses appropriate for the Title VI education of NDOR employees.

- Provide training on Title VI topics on an annual basis by the use of on-line resources, as well as possible classroom training. Ensure all employees have equal access to training courses.

- NDOR may use tools such as emails and newsletters to provide ongoing information regarding the Title VI program.

- Maintain program documentation to support the Title VI initiatives of NDOR.

The Highway Civil Rights Coordinator provides training to subrecipients and other interested parties (local public agencies, contractors, consultants, etc.) in the following manner:

- Sub-Recipients will complete an initial "Responsible Charge" training. This training will include a module on Title VI and ADA. Training completion will be tracked and recorded

- Subrecipients and other interested parties are provided with annual classroom training opportunities. Training completions will be tracked and recorded.

- The NDOR Highway Civil Rights Coordinator or designee is available to conduct specific training relating to the Title VI program on request from a subrecipient or other interested party. Training completion will be tracked and recorded.

- NDOR may use tools such as emails and newsletters to provide ongoing information regarding the Title VI program.

Complaint Procedures

The Nebraska Department of Roads is required, under 23 CFR 200.9(b)(3), to develop procedures for prompt processing and disposition of Title VI and Title VIII complaints received directly by the State and not by FHWA. Additionally, Title II of the Americans with Disabilities Act, Subpart A, Section 35.107(b) requires that a public entity employing 50 or more persons adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. The following complaint procedures are patterned after the Federal Highway Administration Procedures Manual for Processing External Complaints of Discrimination, found [here](#). Internal civil rights complaint procedures are found in the NDOR Equal Employment Opportunity Plan.

Complaints may be against NDOR itself, or against an NDOR subrecipient. All Complaints filed with NDOR forwarded to FHWA. FHWA will then decide which agency will investigate the complaint.

FHWA has delegated authority for making all final decisions for Title VI complaints. A copy of the complaint, together with a copy of NDOR's report of investigation (if NDOR is selected to investigate the complaint), will be forwarded to the FHWA division office within 60 days of the date the complaint was received by NDOR. FHWA actions might then include dismissing the complaint, conducting additional investigation, and/or issuing a Letter of Finding.

Americans with Disabilities Act Complaints filed with NDOR, whether against its subrecipients or against the Department itself, will be forwarded to FHWA. FHWA will then decide which agency will investigate the complaint.

Persons Eligible to File

Any person or any specific class of persons, by themselves or by a representative, that believe they have been subjected to discrimination or retaliation prohibited by Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes, Section 504 of the Rehabilitation Act of 1973 (Section 504), or Title II of the Americans with Disabilities Act of 1990 (ADA) may file a complaint.

Complaint Substance and Format

A complaint is a written or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. NDOR has developed a Complaint Form (See Documents Appendix) and made it available on the NDOR website.

A complaint must contain at least the following information:

- The complainant's name and a way to contact the complainant;

- A written explanation of what has happened;

- The basis of the complaint, e.g., age, sex, race, color, national origin, or disability;

- The identification of the respondent, e.g., agency/organization alleged to have discriminated;

Sufficient information to understand the facts that led the complainant to believe that discrimination occurred; and,

The date(s) of the alleged discriminatory act(s).

While the above indicates a complaint should be in writing and signed, NDOR will accept complaints in alternate formats from persons with disabilities, upon request. For example, the complaint may be filed on a computer disk, by audio tape, or in Braille, or the complainant may call the agency and provide the allegations by telephone. The agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for signature.

Complaints in languages other than English will be translated and responded to in the language in which they were written.

The following are examples of items that are not considered complaints, unless the item contains a signed cover letter specifically asking that NDOR take action concerning the allegations:

An anonymous complaint;

Inquiries seeking advice or information;

Courtesy copies of court pleadings;

Courtesy copies of complaints addressed to other local, State, or Federal agencies;

Newspaper articles; and,

Courtesy copies of internal grievances.

Timeframe for Filing Complaints

Complaints must be filed within 180 days of the last date of the alleged discrimination. The filing date of the complaint is the earlier of: (1) the postmark of the complaint, or (2) the date the complaint is received by any office authorized to receive complaints.

An extension may be granted under any of the following circumstances:

The complainant could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;

The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 180-day period, and the complaint was filed within 60 days after the period of incapacitation ended;

The complainant filed a complaint alleging the same discriminatory conduct within the 180-day period with another Federal, State or local civil rights enforcement agency, and filed a complaint with DOT within 60 days after the other agency had completed its investigation or notified the complainant that it would take no further action;

The complainant filed, within the 180-day period, an internal grievance alleging the same discriminatory conduct that is the subject of the DOT complaint, and the complaint is filed no later than 60 days after the internal grievance is concluded;

Unique circumstances generated by DOT action have adversely affected the complainant; or

The discriminatory act is of a continuing nature.

Some complaints will be referred to NDOR by other agencies. In the event the referring agency has possessed the complaint for an inordinately long period of time and the complainant filed his or her complaint with that agency within the 180-day timeframe NDOR will automatically grant an extension.

Processing and Investigating Complaints

Upon initial receipt, a complaint will always be date stamped by the receiving office, or the date of receipt will otherwise be recorded. The date of receipt by the receiving office is crucial for determining timeliness.

The complaint will be reviewed within 10 calendars days of receipt to determine whether it contains all the necessary information required for acceptance. If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance. If the complaint is incomplete, the complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 15 calendars days to respond to the request for additional information.

A request for information will be mailed to the respondent, along with a copy of the complaint, upon acceptance of the complaint.

The investigation will be confined to the issues and facts relevant to the allegations in the complaint, unless evidence shows the need to extend the issues. The standard of proof applied in making a determination of noncompliance will be one of preponderance of evidence. The preponderance of evidence as a standard of proof in civil cases is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

An investigative report will be maintained which documents activity related to the complaint. The investigative report will contain, at minimum:

The identity of each complainant and each respondent, including contact information;

The nature and basis of the complaint;

Copies of all requests for information, along with responses to the requests;

A log of all important dates relevant to the complaint, including, but not limited to, the date that the complaint was filed, the dates of all correspondence with complainant or respondent, the dates of all interviews with complainant or respondent, and the date of the disposition (or the date that the complaint was forwarded to FHWA for further action);

The disposition and/or recommendations for action; and

Other pertinent information.

The NDOR Civil Rights Office will complete investigations of Title VI complaints within 60 days, at which time a copy of the complaint, together with a copy of NDOR's report of investigation and recommendation for action, will be forwarded to the FHWA division office as required by regulation.

Although the regulations do not specify a timeframe for the investigation of ADA complaints, the NDOR Civil Rights Office strives to have ADA complaints investigated and finalized within 90 days of receipt of the complaint.

Dismissal of a Complaint

The FHWA has delegated authority for dismissing Title VI complaints. NDOR has authority to dismiss ADA complaints against its subrecipients. A complaint may be dismissed for the following reasons:

The complaint is untimely filed;

The complainant fails to respond to repeated requests for additional information needed to process the complaint;

The complainant cannot be located after reasonable attempts;

There is no statutory or alleged basis for the complaint, NDOR and/or FHWA lack jurisdiction in the matter, or the complainant does not allege any harm with regard to current programs or statutes;

The complaint has been investigated by another agency and the resolution of the complaint meets USDOT/FHWA regulatory standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;

NDOR and/or FHWA obtain credible information at any time indicating that the allegations raised by the complainant have been resolved, or are moot and there are no class-wide allegations or implications. In such a case, NDOR and/or FHWA will attempt to ascertain the apparent resolution. If NDOR and/or FHWA determine that there are no current allegations appropriate for further complaint resolution, the complaint will be closed;

The complainant decides to withdraw the complaint;

The same complaint allegations have been filed with another Federal, State, or local agency, or through a respondent's internal grievance procedures, including due process proceedings, and NDOR and/or FHWA anticipates that the respondent will provide the complainant with a comparable resolution process under comparable legal standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;

The FHWA refers a complaint over which USDOT has jurisdiction to another agency that also has jurisdiction but may be better suited to conduct the investigation;

A complaint, because of its scope, may require extraordinary resources. In such instances, NDOR and/or FHWA may consider treating such a complaint as a compliance review. Similarly, a compliance review may be the most effective means of addressing multiple individual complaints against the same respondent; or,

If NDOR and/or FHWA selects this option, it should discuss the decision with the complainant(s), close the complaint, and initiate the review as soon as possible. NDOR and/or FHWA should

provide the complainant(s) with a copy of the resolution documents upon completion of the compliance review.

Contact Information

Complaint forms are available on the NDOR website or by contacting the NDOR Civil Rights Office. Complaints and substantiating information should be sent to:

Nebraska Department of Roads
Chris Hassler, Highway Civil Rights Coordinator
1500 Highway 2
PO Box 94759
Lincoln, NE 68509-4759
402-479-3553
christopher.hassler@nebraska.gov

Compliance With Executive Order 13166

Improving Access to Services for Persons with Limited English Proficiency

Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency is also directed to work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. In certain circumstances, a failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964.

In accordance with federal directives on Executive Order 13166, the Nebraska Department of Roads has developed a Limited English Proficiency Plan. The NDOR LEP Plan contains, in part, the following information:

Current American Community Survey data on languages spoken in the State of Nebraska;

The four-factor analysis prescribed in the US DOT Limited English Proficiency Guidance. The analysis considers these factors:

The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of NDOR.

The frequency with which LEP individuals come in contact with NDOR programs.

The nature and importance of the programs, activities, and/or services provided by NDOR to people's lives.

The resources available to NDOR and the costs of providing language assistance measures.

The types of language assistance measures that NDOR will use in order to ensure effective communication with LEP persons; and

A procedure for submitting complaints about the NDOR LEP program.

For complete information on the Nebraska Department of Roads' compliance with Executive Order 13166, please see the NDOR Limited English Proficiency Plan, located [here](#).

Compliance With Executive Order 12898

Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, directs federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law. The order also directs each agency to develop a strategy for implementing environmental justice. The order is also intended to promote nondiscrimination in federal programs that affect human health and the environment, as well as provide minority and low-income communities access to public information and public participation. As a recipient of federal financial assistance, the Nebraska Department of Roads must also comply with Executive Order 12898 and related directives.

Broadly, the primary goals of NDOR with regard to Environmental Justice compliance are as follows:

To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.

To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.

To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Applicable Orders, Directives, and Guidance

The Environmental Justice policy of the Nebraska Department of Roads has been patterned after, and does not deviate from, the processes detailed in the following federal orders and directives:

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

US Department of Transportation Order 5610.2A, *Final DOT Environmental Justice Order*;

Federal Highway Administration Order 6640.23A, *FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

The federal orders and directives are silent on some aspects of Environmental Justice analysis and compliance. In areas where the federal orders and directives are silent, the Nebraska Department of Roads has used the following documents for guidance:

Federal Highway Administration Memorandum of December 16, 2011, *Guidance on Environmental Justice and NEPA*;

Council on Environmental Quality guidance document of December 10, 1997, *Environmental Justice Guidance under the National Environmental Policy Act*;

National Cooperative Highway Research Program Report 532, *Effective Methods for Environmental Justice Assessment*;

National Cooperative Highway Research Program Report 710, *Practical Approaches for Involving Traditionally Underserved Populations in Transportation Decisionmaking*.

Liu, Dr. Feng. *Environmental Justice Analysis: Theories, Methods, and Practice*. Boca Raton: Lewis Publishing, 2001;

US Department of Transportation Publication No. FHWA-EP-01-010, *Transportation and Environmental Justice Case Studies*.

Definitions

FHWA. The Federal Highway Administration as a whole and one or more of its individual components.

Low-Income. A person whose median household income is at or below the Department of Health and Human Services poverty guidelines. The 2014 DHHS Poverty Guidelines for the 48 contiguous states defines the poverty level as \$11,670 for an individual and \$23,850 for a family of four. The U.S. Department of Health and Human Services does not publish tabulations of the number of people below the DHHS poverty guidelines, which are a simplified version of the federal poverty thresholds. The federal poverty thresholds are used for calculating all official poverty population statistics, and are updated annually by the Census Bureau. The best approximation for the number of people below the DHHS poverty guidelines in a particular area is the number of persons below the Census Bureau poverty thresholds in that area.

Minority. A person who is:

Black: a person having origins in any of the black racial groups of Africa;

Hispanic or Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent;

American Indian and Alaskan Native: a person having origins in any of the original people of North America, South America (including Central America), and who maintains cultural identification through tribal affiliation or community recognition; or

Native Hawaiian and Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

Low-Income Population. Low-income populations should be identified where:

the low-income population of the affected area exceeds 50 percent;

the low-income population percentage of the affected area is meaningfully greater than the low-income population percentage in the general population or other appropriate unit of geographic analysis;

a readily identifiable group of low-income persons that lives in geographic proximity is present in the affected area; OR

If circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed NDOR program, policy, or activity, are present in the affected area.

Minority Population. Minority populations should be identified where:

the minority population of the affected area exceeds 50 percent;

the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis;

a readily identifiable group of minority persons that lives in geographic proximity is present in the affected area; OR

If circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed NDOR program, policy, or activity, are present in the affected area.

Adverse Effects. The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of human-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of NDOR programs, policies, or activities.

Disproportionately High and Adverse Effect on Minority and Low-Income Populations. An adverse effect that:

Is predominately borne by a minority population and/or a low-income population; OR

Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

NDOR. The Nebraska Department of Roads as a whole and one or more of its individual components.

Programs, Policies, and/or Activities. All projects, programs, policies, and activities that affect human health or the environment, and that are undertaken, funded (in whole or in part), or approved by NDOR. These include, but are not limited to, permits, licenses, and financial assistance provided by NDOR. Interrelated projects within a system may be considered to be a single project, program, policy, or activity for purposes of this directive.

Regulations and Guidance. Regulations, programs, policies, guidance, and procedures relevant to Environmental Justice analysis and/or compliance.

Project-Level Environmental Justice Process

The NDOR Civil Rights Office currently reviews each state and local federal-aid project for Environmental Justice and Limited English Proficiency concerns during the completion of NDOR Form 53 (DR-53), *Probable Class of NEPA Action Form*. This form includes most project specifics, as well as project area and detour maps, as attachments. Because the DR-53 is one of the first documents created in the life of a project, the NDOR Civil Rights Office is able to review projects at a very early stage of development. This early review allows the Civil Rights Office to recommend effective public involvement/outreach methods, and also allows the Civil Rights Office to keep a close eye on projects with potential disproportionately high and adverse effects as the project development process progresses. The early Civil Rights Office review is included with the DR-53, or in a separate "Civil Rights Memo," and is routed to both the NDOR Public Involvement Office and the NDOR Environmental Unit.

Using localized census tract data and other relevant information sources, the NDOR Civil Rights Office will gather data and list any readily identifiable groups or clusters of minority or low-income persons in the environmental study area. Small clusters or dispersed populations are not overlooked.

In the appropriate section of the NEPA document, typically the section regarding social and economic impacts, demographic information is provided on the general population in the project study area. Social characteristics include identification of the ethnicity, age, mobility and income level of the population. These data elements, while not all required for an EJ analysis, are important to provide context for understanding area demographics.

When there are no minority or low-income populations in the study area, no Environmental Justice analysis is required.

When minority or low-income populations are present in the environmental study area, the NDOR Civil Rights Office will review the project description and other documents to determine whether or not potential disproportionately high and adverse effects exist. The results of any early public involvement efforts will be considered at this stage as well. The beneficial and adverse effects on the minority and low-income populations are addressed according to the circumstances of the specific project. Topics may include air, noise, water pollution, hazardous waste, aesthetic values, community cohesion, economic vitality, employment effects, displacement of persons or businesses, farms, accessibility, traffic congestion, relocation impacts, safety, and construction/temporary impacts. If no potential adverse effects exist, the Environmental Justice analysis is completed.

If potential disproportionately high and adverse effects exist, then consideration must be given to mitigation (as defined in 40 CFR 1508.20) for all adverse effects. The analysis produced by the NDOR Civil Rights Office discusses what measures are being considered for alternatives to avoid or mitigate any adverse effects. NDOR will follow the protocol of avoidance first, then minimization, and finally measures to offset or rectify the adverse effects. Using opportunities to enhance and increase sustainability in communities and neighborhoods is desirable.

If the effects remain adverse after mitigation is considered, then a determination must be made whether those effects are disproportionately high and adverse with respect to minority and/or low income populations. Disproportionately high and adverse effects are those that:

Are predominately borne by a minority population and/or a low-income population; OR

Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

The NDOR Civil Rights Office does not make the final determination of whether or not disproportionately high and adverse effects exist. The analysis generated by the Civil Rights Office is sent, along with the remainder of the NEPA document, to FHWA for review and approval.

Program-Level Environmental Justice Review

Environmental Justice requires not only a project-by-project analysis, but also a broader look at how the agency extends and maintains services. Are services being extended to and maintained for those persons in minority and low-income communities in a fair and equitable manner? In fulfilling this requirement, the NDOR Civil Rights Office will annually review planning-level NDOR documents to ensure that minority and low-income populations are not being excluded from NDOR programs, activities, or services.

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**Public Involvement
ADA Accessibility
Checklist**

Event: _____

Project: _____

Date: _____

Time: _____

Venue: _____

Element	Accommodation Area	Yes	No	N/A
<u>Transportation</u>	Is the facility/meeting location accessible by public transportation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If yes, is public transportation available at the time of the meeting/training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Evacuation</u>	Do you know the emergency evacuation plans for the meeting/training location?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Parking</u>	Does the building have accessible (<i>handicap</i>) parking spaces?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If yes, are they at least 8' wide and have 5' aisles next to them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Sidewalk</u>	Are there unobstructed curb ramps leading to the sidewalk (<i>walkway</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Walkway</u>	Is there a walkway from the parking lot to the building, at least 36" wide?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Does the walkway have a stable and firm surface?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If the accessible route is different from the primary route to and through the building, can you post signs with the wheelchair symbol that show the route?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the walkway level and free of steps?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If no, is there a ramp at least 36" wide?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If there is a ramp, does it have a gentle slope (<i>1" rise to 12" length</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Entrance/Doors</u>	Is the door at least 36" wide (<i>wide enough for a wheelchair</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Can the hardware be operated with one hand (<i>level, push plate, etc.</i>) with minimum of twisting or grasping?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Are the handles low enough to reach (<i>maximum 48" high</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Can the door be pushed open easily?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the threshold no more than 1/2" high and beveled?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	When a vestibule, is there a minimum of 48" between the sets of doors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Element	Accommodation Area	Yes	No	N/A
<u>Floors</u>	Are the floors hard and not slippery?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is there a floor mat to dry feet and crutch tips to prevent slipping?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Corridors</u>	Is there a 36" corridor, from the entrance to where the meeting/training is held?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the path free of objects projecting 4" maximum into the corridor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Elevators</u>	Is there an elevator in the facility where the meeting/training is located?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If yes, is it a working one that is large enough for a wheelchair?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Are the controls within reach (<i>maximum 48"</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Do the controls have Braille?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is there an audible signal ringing at each floor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is there an audible two-way emergency communication system in the elevator?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Meeting/Training Rooms</u>	Is there enough clearance around the table for a wheelchair to move?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Can the wheelchair pull under the edge of the table to sit close?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Restrooms</u>	Is there a wide, accessible path to the restroom?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is there a toilet stall wide enough that a wheelchair can enter and close the door behind? Interior space to turn around?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the water closet (<i>toilet</i>) 17-19 inches high to the rim?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Can the wheelchair roll under the sink (<i>29" to the bottom</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Can the faucets be reached and turned on easily?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Are the dispensers (<i>soap, towel, etc.</i>) reachable (<i>maximum 48" high</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is there a mirror at an accessible height (<i>bottom of the mirror 44" above the floor</i>)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Fire Alarms</u>	Are there flash fire alarm signals in the building, in the meeting/training room?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Signage</u>	Is there Braille text in the signage at the facility?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature

Public Hearings Officer

Date

NDOR Subrecipient Annual Report Template

Name of Subrecipient _____

Date _____

This reporting format will be used for reporting Title VI activities of Local Public Agencies (LPA). The Annual Report is to be submitted by July 31 each year to the Highway Civil Rights Coordinator, NDOR.

POLICY STATEMENT

Describe any changes to your approved policy statement that have resulted from changes in the legislation, local ordinances, etc., or a change in Board. Submit a copy of the policy statement with approved signature.

ORGANIZATION, STAFFING, STRUCTURE: Report any changes in the organizational structure since the last reporting period. Example: New Title VI Coordinator, new planning or public works directors etc.

Report should identify the changes in the racial/gender composition of those persons involved in the transportation decision making, including planning and advisory staff.

If no changes have been made, please indicate that accordingly.

DEMOGRAPHICS: Using the most current data available (through Census or Nebraska State Office of Financial Management), describe the demographics within your jurisdiction.

Describe any required Title VI activities and/or studies conducted that provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits.

How was the information utilized or Title VI provisions and needs applied in each study or activity?

COMPLAINTS: Identify Title VI complaints filed, if any. Provide a summary of each with basis, status, actions proposed and actions taken.

This includes complaints from each of the Program Areas (if applicable): Planning, Project Development, Design, Right-of-Way, Construction, and Research.

ACCOMPLISHMENT REPORT FOR EACH PROGRAM AREA

Public Outreach Activities: List any Public outreach activities during the reporting period such as Public announcements and/or communications for meetings, hearings, project notices. Include the following:

How were special language needs assessed? List the special language needs assessments conducted.

What outreach efforts did you utilize to ensure that minority, women, low-income, and LEP population groups were provided equal opportunity to participate in those outreach activities. (Examples: provided materials in other languages; met with local social services agencies, advertised in a minority publications)

List the special language services provided – note the professional language service provided including the name of the service, date provided, number of persons served, and any other relevant information.

List any costs incurred for translations and interpreters for each activity.

Executed Contracts: List all the transportation related contracts, (Federal and others), that were executed during the reporting period.

Is there a Title VI Non-Discrimination statement included in all contracts & public notices?

Impacts on Minority & Low-Income: Summarize any transportation projects that identify potential impacts to minority and/or low-income Environmental Justice (EJ) populations i.e. impacts such as displacements, increased noise, bisecting neighborhoods, et al). Note the following:

How impacts were minimized/mitigated.

Also include a statement, if applicable, on projects that specifically benefit community cohesion such as: adding sidewalks, improving access to properties that improve access for EJ populations.

Right-of-Way: If Right of Way has been acquired for a transportation project, please describe:

Identify the number of minority, low-income, elderly and disabled persons affected

The efforts that were made to address Limited English Proficiency issues (including use of translators, outreach efforts for each reported activity)

Describe any concerns raised by minorities and women regarding appraisals, negotiations, relocation assistance and payments. What actions were taken to resolve those issues?

Education and Training

- A. Identify agency staff responsible for training.
- B. Describe Title VI training, if any, that was provided, and how many participants attended, their titles, etc.
- C. Describe participation in any other kind of civil rights training.

Americans With Disabilities Act, Title II

Local Agencies with 50 or more employees are required by Title II to develop and implement an ADA Self-Evaluation and Transition Plan.

- A. Summarize progress towards meeting the Plan's schedule of ADA corrections
- B. If you have 50 or more employees, provide the name of the individual who will be serving as the ADA coordinator for the next year.
- C. How do you provide notice to the public that name and contact information for your ADA Coordinator?
- D. What process is available so that a member of the public can request an accommodation (for meetings, and in the public right of way)?

2015 Report on Sub-Recipient Annual Updates

The Civil Rights Office received Annual Updates from 15 sub-recipients this year. In general, the Updates indicate that the Civil Rights Program is being effectively implemented in most of the localities that reported in. Examples of accomplishments and best practices include:

- Most recipients included the US Census data for their jurisdiction in the Update. This demonstrates a knowledge and monitoring of the demographics in each locality.
- There were no Title VI, LEP, or ADA complaints reported from any of the jurisdictions that completed annual updates.

Some general deficiencies noted include the following:

- Many recipients of federal funds through NDOR did not submit the required Annual Update this year. In some cases, this is because NDOR conducted recent desk reviews of the locality or have otherwise been in recent contact with the LPA about their Civil Rights compliance. In other cases, small villages and cities may not have ever been recipients of federal financial assistance through NDOR. In most cases, the LPAs simply did not complete the report.
- Many recipients, while recognizing and fulfilling the obligation to provide access to persons of Limited English Proficiency, do not have a Limited English Proficiency Plan in place.
- Some recipients submitted reports lacking in detail or specificity. In some cases, this was because nothing had changed in the locality since the creation of their Title VI, ADA, and/or LEP Plans.

As in previous years, two broad generalizations can be made from the Updates received by NDOR. First, large, metropolitan recipients typically have more complete and detailed Updates and procedures than their small, rural counterparts. The largest recipients of federal financial assistance through NDOR have all been through recent desk reviews.

Second, the recipients who completed their Annual Updates for NDOR are, in general, those recipients who have either been through a Civil Rights Office desk review, or who have attended NDOR Civil Rights training.

These generalizations support the conclusion that many of the deficiencies noted can be reduced or eliminated through two practices: increased training, and more persistent communication between NDOR's Civil Rights Office and NDOR sub-recipients.

2015 Desk Audits of NDOR Subrecipients

The Civil Rights Office undertook desk reviews of 10 sub-recipients this reporting year. Because the NDOR Civil Rights Office typically does not repeat a desk review of a local agency for 3 – 5 years, the 2015 selections, as in 2014, were mostly rural counties and small first class cities. In general, the localities reviewed were not fully compliant and are working toward compliant status. Because of the comparatively limited human and financial resources of rural counties and small first class cities, full compliance will take more time to achieve than in, for example, metropolitan class, primary class, or larger first class cities. Notable positive trends include:

- Multiple sub-recipients were originally deemed deficient. Some of these have now been raised from deficiency status to compliant status with help and training from the NDOR Civil Rights Office. Most have work to do yet in becoming compliant. Of the 10 audits undertaken, 1 locality has become totally compliant; 2 others are near compliance, with only minor comments to address on their ADA Self-Evaluations and Transition Plans; and 5 localities have compliant Title VI Implementation Plans and/or ADA Policies, but lack elements like ADA Self-Evaluations or Transition Plans, or LEP Plans. Two localities, the Cities of Ogallala and Rushville, have no documents on file with NDOR at this time, and efforts are still underway to implement civil rights programs in these localities. NDOR will continue to pursue compliance from these non-responsive agencies into the 2015-2016 reporting year.
- The Limited English Proficiency Plans that are in place are excellent, demonstrating a knowledge and proper use of the four-factor analysis and accompanying supporting data.
- Eight of ten sub-recipients reviewed are adequately staffed in proportion to its population and challenges.
- Eight of ten sub-recipients have adequate complaint procedures in place.
- Zero complaints were received from any of the reviewed localities during the reporting year.

The most common deficiencies are:

- Several sub-recipients still do not have LEP plans in place. However, each is aware of their duty to have these plans, and each is working toward completion with guidance from NDOR.
- Many of the sub-recipients do not have adequate data collection procedures in place. This is largely due to the limited planning, right-of-way, and public involvement functions of the recipients; there simply are not the same opportunities for data collection in the localities as in the State. However, each locality is aware of their statutory duty to have data collection procedures in place, and each is working with NDOR to effectively implement data collection methods where appropriate.

Achieving full compliance for the localities reviewed in 2015 is expected to take longer than in previous years because of the limited resources of the small agencies reviewed. However, the deficiencies have been noted, the local agencies largely understand their legal duties, and almost every locality has worked or is working with the Civil Rights Office to ensure that their jurisdiction is fully compliant with the NDOR Civil Rights Program.

The “common deficiencies” will be addressed in the upcoming reporting year in the same manner that deficiencies in the Annual Updates will be resolved: through increased focus on training, and through frequent and persistent contact by the Civil Rights Staff with those who receive federal financial assistance through NDOR.

For complete information on local agency civil rights compliance, see attached spreadsheet, “LPA Compliance Master List”.

Nebraska Department of Roads - Right of Way Division

Civil Rights Survey

The Federal Highway Administration (FHWA) works collaboratively with the Nebraska Department of Roads (NDOR) to protect the rights of those impacted by transportation projects receiving Federal-aid by ensuring that applicable laws, regulations, and policies are being complied with. As stated under 23 CFR 200.9, NDOR has the responsibility to uphold the rules relating to the civil rights of impacted citizens and affected communities by highway construction projects.

23 CFR 200.9 b 4 is the reason for this survey and is written as follows:

Sec. 200.9 State highway agency responsibilities.

- (a) State assurances in accordance with Title VI of the Civil Rights Act of 1964.
- (1) Title 49, CFR part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives Federal assistance from the Department of Transportation, including the Federal Highway Administration.
- (b) State actions. (1) Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the State highway agency. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
- (4) Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities.

This Civil Rights Survey is intended to ensure that NDOR is collecting the statistical data needed to assure Federal Compliance. Answering these questions is entirely voluntary. You are requested to return this form to the NDOR, whether you choose to complete it or not.

Race/Color:

- | | | | |
|---------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> White | <input type="checkbox"/> Hispanic/Latino | <input type="checkbox"/> Black | <input type="checkbox"/> American Indian/Alaskan Native |
| <input type="checkbox"/> Asian | <input type="checkbox"/> Native Hawaiian/Other Pacific Islander | <input type="checkbox"/> Multi-racial | |
| <input type="checkbox"/> Other: | _____ | | |

Religion: _____

Sex: ☐ Male ☐ Female

National Origin: _____

Project Number: _____

Tract Number: _____



Your attendance and participation is appreciated. (Se agradece su asistencia y participación.)

Contact Information		Interest	Please Check (Por favor marque)			
Name (Nombre)	(Domicilio o Dirección Postal)		Notification (Notificación)	Gender (Género)	Ethnicity (Raza o Etnia)	
Please Print	Address City/Zip		<input type="checkbox"/> Mailing (Correo) <input type="checkbox"/> Newspaper (Perifoneo) <input type="checkbox"/> Mailing (Correo) <input type="checkbox"/> Newspaper (Perifoneo)	<input type="checkbox"/> Web <input type="checkbox"/> Friend (Amigo) <input type="checkbox"/> Other (Otros)	<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> White <input type="checkbox"/> Latino <input type="checkbox"/> Black <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Other
Please Print	Address City/Zip		<input type="checkbox"/> Mailing (Correo) <input type="checkbox"/> Newspaper (Perifoneo)	<input type="checkbox"/> Web <input type="checkbox"/> Friend (Amigo) <input type="checkbox"/> Other (Otros)	<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> White <input type="checkbox"/> Latino <input type="checkbox"/> Black <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Other
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Complaints of Discrimination

Nebraska Department of Roads

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by NDOR or its sub-recipients, consultants and/or contractors. Intimidation or retaliation of any kind is prohibited by law.

Persons Eligible to File: any person who believes that he or she or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the civil Rights authorities based upon race, color, sex, age, national origin or disability may file a written complaint.

DISCRIMINATION: *an act (or action) or inaction whether intentional or unintentional, through which a person in the United States, based on race, color, sex, age, national origin, or disability has been subjected to unequal treatment under any program or activity receiving Federal financial assistance.*

FILING OF COMPLAINT

1. Complaints must be in writing and contain as much information as possible about the alleged discrimination. The Nebraska Department of Roads has prepared a Complaint Form to be used for the convenience of the complainant. The written complaint should include:
 - a. Complainant's name, address and telephone number
 - b. A detailed description of the issues,
 - c. Name and job titles of individuals perceived as parties in the complaint

Complaints received by telephone will be reduced to writing and provided to complainant for confirmation or revision, and signature before processing.

2. Complaint forms can be found at www.transportation.nebraska.gov, or by contacting the NDOR Civil Rights Coordinator. Complaints and substantiating information should be sent to:

Nebraska Department of Roads
Carrie Williams, Highway Civil Rights Coordinator
1500 Highway 2
PO Box 94759
Lincoln, NE 68509-4759
402/479-4870
carrie.williams@nebraska.gov

Alternate means of filing a complaint will be made available to accommodate persons with disabilities upon request.

3. A complaint should be filed as soon as possible but must be no later than 180 calendar days after the complainant becomes aware of the alleged discrimination.
4. Upon receipt of the complaint, the Nebraska Department of Roads will notify the Federal Highway Administration, to coordinate all further activity regarding the complaint.
5. The NDOR Civil Rights Coordinator, or other Investigator, will contact the complainant to:
 - a. Acknowledge receipt of the complaint
 - b. Confirm that the complainant wishes to go forward with the complaint

- c. Confirm that there are allegations to be investigated and resolved, and
- d. Gather additional facts and further clarify the complaint.

INVESTIGATION OF COMPLAINT

An Investigator, will review and investigate the complaint. As part of the review, the investigator will at minimum:

1. Gather relevant information
2. Contact complainant to arrange and conduct interview, if needed
3. Maintain log of all activities associated with complaint.
4. Complete Investigative Report of information, findings, photos, and recommendations for correction to the Federal Highway Administration (FHWA).

A copy of the complaint, together with a copy of the State's report of investigation, shall be forwarded to the FHWA division office within 60 days of the date the complaint was received by the State.

A Title VI finding of violation or no violation is a Federal decision that cannot be delegated. Although NDOR can conduct a Title VI investigation and make a recommended finding to the Federal decision-making authority, NDOR must submit the proposed dispositions to FHWA for a Final Agency Decision.

DISMISSAL OF COMPLAINT

A complaint may be dismissed for the following reasons:

1. The complaint is untimely filed
2. The complaint does not allege a basis covered by the statutes for which NDOR is responsible
3. The complaint does not allege any harm with regard to covered programs or statutes
4. The complainant requests the withdrawal of the complaint
5. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
6. The complainant cannot be located after reasonable attempts

Title VI Discrimination Complaint Form

Nebraska Department of Roads

Complainant:	Phone:
Address: (City, State, Zip)	Email:
Person discriminated against, if different from above:	Phone:
Address: (City, State, Zip)	Email:
Type of Discrimination: <input type="checkbox"/> Race/Color <input type="checkbox"/> Age <input type="checkbox"/> Sex <input type="checkbox"/> National Origin <input type="checkbox"/> Disability <input type="checkbox"/> Retaliation	Date of Incident:
Date and place of alleged discriminatory actions. Please include earliest date of discrimination and most recent date of discrimination. 	
Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. Also attach any written material pertaining to your complaint (attach additional pages if necessary). 	
Names and contact information of persons (witnesses, others) whom we may contact for additional information to investigate your complaint. 	
The complaint will not be accepted if it has not been signed. Please sign and date this complaint form below. You may attach any written materials or other supporting information that you believe is relevant to the complaint. <div style="display: flex; justify-content: space-between;"> Signature _____ Date _____ </div>	
Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Submit completed form and any additional information to: Nebraska Department of Roads Attn: Carrie Williams, Highway Civil Rights Coordinator 1500 Highway 2 PO Box 94759 Lincoln, NE 68509-4759	
NDOR USE ONLY: <div style="display: flex; justify-content: space-between;"> Received by _____ Date _____ </div>	

Who may file a Title VI complaint?

A complaint may be filed by any individual or group that believes that they have been subjected to discrimination or retaliation based on their race, color, national origin, sex, age, disability/handicap and/or income level. The complaint may be filed by the affected party or representative and must be reduced to writing.

How to File a Complaint

You may file a written complaint within 180 days from the date of the alleged discrimination.

The complaint should include:

1. Your name, address and telephone number. If you are filing on behalf of another person, include their name, address, telephone number and your relation to the person (e.g. friend, attorney, parent, etc).
2. The name and address of the agency, institution or department you believe discriminated against you.
3. Your signature.
4. A description of how, why, and when you believe you were discriminated against. Include as much background information as possible about the alleged acts of discrimination.
5. The names of individuals whom you allege discriminated against you, if you now them.
6. The names of any persons, if known, that NDOR could contact for additional information to support or clarify your allegations.

Your complaint must be signed, dated and submitted to the Highway Civil Rights Coordinator.

What will happen if the recipient retaliates against me for asserting my rights or filing a complaint?

A recipient is prohibited from retaliating against you or any person because he or she reported an unlawful policy or practice, or made charges, testified, or participated in any complaint action under Title VI.

What is a Recipient?

Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession the District of Columbia, or Puerto Rico, to whom Federal Assistance is extended either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term recipient does not include any ultimate beneficiary under any such program.

Non-discrimination Statement

Under Title VI of the Civil Rights Act of 1964 and related statutes, the Nebraska Department of Roads ensures that no person shall, on the grounds of race, color, national origin, age, disability, or sex, be excluded from participation in, denied the benefits or services of, or be otherwise subjected to discrimination in all programs, services or activities administered by the Nebraska Department of Roads.

Nebraska Department of Roads
Carrie Williams, Highway Civil Rights Coordinator
1500 Highway 2, PO Box 94759
Lincoln, Nebraska 68509

Phone: 402-479-4870
Fax: 402-479-4574
Email: carrie.williams@nebraska.gov

Highway Civil Rights

Your Rights Under

Title VI

of the Civil Rights Act of 1964



"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."



Highway Civil Rights

What Is Title VI of the Civil Rights Act and the Title VI Program?

Title VI of the Civil Rights Act of 1964 is the Federal law that protects individuals and groups from discrimination on the basis of their race, color, and national origin in programs and activities that receive Federal financial assistance. This also includes other civil rights provisions of Federal statutes and related authorities to the extent that they prohibit discrimination in programs and activities receiving Federal financial aid.

Pursuant to Title VI of the Civil Rights Act of 1964, the Restoration Act of 1987 and other non-discrimination authorities, it is the policy of the Nebraska Department of Roads that discrimination on the ground of race, color, national origin, disability/handicap, sex, age or income status shall not occur in connection with programs or activities receiving Federal financial assistance.

What discrimination is prohibited by the FHWA Title VI Program?

Discrimination under our Title VI program is an act (action or inaction), whether intentional or unintentional, through which a person or group, solely because of race, color, national origin, disability/handicap, sex, age or income status has been otherwise subjected to unequal treatment or impact, under any program or activity receiving financial assistance from FHWA.

Many forms of illegal discrimination based on the grounds identified above do exist that can limit the

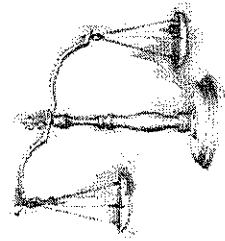
opportunity for individuals and groups to gain equal access to services and programs. In operating FHWA-assisted programs, a recipient cannot discriminate either directly or through contractual or other means by:

- Denying program services, financial aids, or other benefits.
- Providing different programs services, financial aids or other benefits, or providing them in a manner different from that provided to others;
- Segregating or separately treating individuals or groups in any matter related to the receipt of any program service, financial aid or benefit;
- Denying person(s) the opportunity to participate as a member of a planning, advisory or similar body;
- Denying person(s) the opportunity to participate in the program through the provision of services, or affording the opportunity to do so differently from those afforded others.

Environmental Justice

In 1994, President Clinton signed Executive Order 12898, Federal Action to Address Environmental Justice in Minority Populations and Low-income

Populations, which focused attention on Title VI by providing that, "each agency shall make



achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations."

Title VI & Limited English Proficiency (LEP)

The federal government and those receiving assistance from the federal government must take reasonable steps to ensure that persons of Limited English Proficiency (LEP) have meaningful access to the programs services and activities of those entities. This will require recipients to create solutions to address the needs of this every-growing population of individuals, for whom English is not their primary language.

Who is an LEP Person?

Persons who do not speak English as their primary language and have a limited ability to read, speak, write or understand English may be considered Limited English Proficient or LEP. These individuals may be entitled to language assistance with respect to a particular type of service, benefit or encounter.

Anyone requiring assistance may contact the Highway Civil Rights Coordinator.

Highway Civil Rights

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